

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of Petition :
 of :
REVLON OVERSEAS CORPORATION C.A. :
for redetermination of deficiencies :
of franchise tax under Article 9-A :
of the tax law for the FYE 11/30/69, :
period 12/1/69 to 12/31/69 and :
calendar years 1970 and 1971. :

The taxpayer having filed a petition for redetermination of deficiencies under Article 9-A of the tax law for the FYE 11/30/69, period 12/1/69 to 12/31/69 and calendar years 1970 and 1971, and a hearing having been held at the office of the State Tax Commission, 2 World Trade Center, New York City, at which hearing H. Landesman, director of taxes and insurance, and J. S. Mehlan, senior tax accountant of the corporation, appeared and the record having been duly examined and considered by the State Tax Commission,

It is hereby found:

(1) Revlon Overseas Corporation C.A. was incorporated in Venezuela in 1955 and began doing business in New York in 1963.

(2) The Corporation Tax Bureau issued statements of audit adjustment and notices of deficiency dated 8/15/73 as follows:

<u>Taxable Period</u>	<u>Tax Deficiency</u>
FYE 11/30/69	\$ 9,432.00
12/1/69 to 12/31/69	1,078.00
calendar year 1970	7,774.00
calendar year 1971	199.00

The deficiencies were based on treating certificates of deposit as equivalent to time deposits in a bank account. As a result, interest income on the certificates of deposit was allocated at the business allocation percentage since the investment allocation percentage of the taxpayer was zero.

(3) Regulation Q, 12 Code of Federal Regulations 217.1 issued by the Board of Governors of the Federal Reserve System, reads in part:

"(b) Time deposits. The term 'time deposits' means 'time certificates of deposit' and 'time deposits, open account', as defined in this section.

"(c) Time certificates of deposit. The term 'time certificate of deposit' means a deposit evidenced by a negotiable or nonnegotiable instrument which provides on its face that the amount of such deposit is payable to bearer or to any specified person or to his order:"

In section 3-104(2)(c) and (d) of the Uniform Commercial Code, enacted in New York in 1962, effective September 27, 1964, certificates of deposit are described as "an acknowledgement by a bank of receipt of money with an engagement to repay it" and a note is defined as "a promise other than a certificate of deposit."

(4) Section 210.3(b)(3) of the tax law reads in part:

" . . . and provided further, that if a taxpayer's investment allocation percentage is zero, interest received on bank accounts . . . shall be multiplied by its business allocation percentage;"

The State Tax Commission hereby

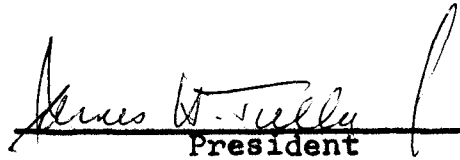
DECIDES:

(A) Since certificates of deposit are equivalent to time deposits in a bank account, interest received thereon must, pursuant to Section 210.3(b)(3) of the tax law, be allocated at the business allocation percentage when the investment allocation percentage is zero.

(B) The tax deficiencies set forth at (2) are affirmed, together with interest in accordance with Section 1084 of the tax law.

Dated: Albany, New York
this 3rd Day of July 1975.

STATE TAX COMMISSION


President


Commissioner


Commissioner